

EXHIBIT B - CONDITIONS OF APPROVAL
DRC2014-00022 M&R Investment One Company, Inc.

Approved Development

1. This Minor Use Permit/ Coastal Development Permit approves the following development and project-related activities in three work areas: The applicant shall complete each work area in its entirety:

Work Area 1

- a. Grading and street improvements to Birch Avenue access road;
- b. Grading and minor site work along the alley for sewer laterals;
- c. Grading and minor site work across Lot 3 & 4 (merged), Lot 5, Lot 6, and adjacent Lot 7 for gas lines;
- d. Restoration and enhancement of the riparian habitat area; and
- e. Total site disturbance of approximately 6,200 square feet (not including riparian restoration).

Work Area 2

- f. Grading and construction of a shared driveway across Lot 3 & 4 (merged), Lot 5, Lot 6, and adjacent Lot 7;
- g. Grading and construction of a new 3,000 sf. (garage included) two-story residence on Lot 3 & 4 (merged). Maximum building height is 28 feet;
- h. Grading and construction of building pads on Lot 5 and Lot 6;
- i. On-going monitoring and restoration of the riparian habitat area; and
- j. Total site disturbance of approximately 11,300 square feet (not including riparian restoration).

Work Area 3

- k. Grading and construction of 2 new two-story residences and related site improvements; 3,600 sf. (garage included) on Lot 5 and 3,600 sf. (garaged included) on Lot 6. Maximum building height is 28 feet;
 - l. On-going monitoring and restoration of the riparian habitat area (as necessary); and
 - m. Total site disturbance of approximately 3,550 square feet (not including riparian restoration).
2. The project will result in a total area of onsite disturbance of approximately 10,000 sf. and offsite disturbance of approximately 7,500 sq.ft. (Birch Avenue access road, utility trenching, and shared driveway construction on adjacent Lot 7).

Conditions required to be completed at the time of application and/or prior to issuance of construction permits

Site Development

3. **At the time of application for grading and/or construction permit(s)**, the applicant shall submit final site plans to the Department of Planning and Building for review and approval. The final site plans shall show the following:
- a. **Little Cayucos Creek Setback.** Other than habitat restoration related development, all development including but not limited to cut and fill slopes, retaining walls, drainage features, fencing, decking, and parking areas, shall be set back a minimum distance of 20 feet from the upland edge of Little Cayucos Creek riparian vegetation.
 - b. **Approved Development Envelope.** All areas of the site outside of the Little Cayucos Creek Riparian Habitat Area and its required setback shall be demarked as the Approved Development Envelope.
 - c. **Little Cayucos Creek Riparian Habitat Area.** The area of the site outside the Approved Development Envelope shall be demarked as the Little Cayucos Creek Riparian Habitat Area, where development and uses shall be limited to restoration, enhancement, protection, and interpretation of the Little Cayucos Creek riparian and Monarch Butterfly habitats.
 - d. **Site Access.** All access to the residential units from E Street shall be clearly identified on the final site plans, and shall include:
 - i. Verification that access has been reviewed and approved by the Department of Public Works with respect to improvements in the Birch Street right-of-way;
 - ii. Verification that access has been reviewed and approved by the Cayucos Fire Department in respects to fire safety regulations;
 - iii. Record of access easement or other legal right of access granted by the Cayucos School District for access across Lot 7.
 - e. **Project Limit Area.** The final plans shall clearly identify specific locations of construction, areas for staging and storage, and construction access corridors. Such areas shall be minimized to the maximum extent feasible to minimize impacts on the creek habitat area. Silt fences, or equivalent shall be installed at the perimeter of allowable construction area to prevent runoff and/or sediment from entering the riparian habitat area.
 - f. **Construction Plan Notes.** The final plans shall include a final construction schedule and erosion control/ water quality BMPs (and locations). The following required criteria must be shown on the Plan Notes:
 - i. All work shall take place during daylight hours. Lighting of the creek and riparian area is prohibited.
 - ii. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside the defined construction, staging, and storage areas.
 - iii. Construction shall only occur during the dry season and Monarch roosting off season, between April 15 to October 1. No construction shall be permitted during any other month to ensure Monarch habitat protection.

4. **Prior to issuance of construction permits for the residences**, the applicant shall submit a color and materials board to the Department of Planning and Building for review and approval.

Fire Safety

5. **Prior to issuance of construction and/or grading permits for each Work Area**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to, those outlined in the project's Fire Safety Plan (Cayucos Fire Department; August 29, 2002 and 2006). Additional Fire Safety Review will be required and the applicant shall provide evidence that all plans submitted are compliant with current fire and life safety requirements of the Cayucos Fire Department and the California Fire Code.

Services

6. **Prior to issuance of construction and/or grading permits for each Work Area**, the applicant shall provide confirmation of final water availability letter from Morro Rock Mutual Water Company to service the new residences. The project shall meet all applicable conditions of the final will serve requirements by the water purveyor.
7. **Prior to issuance of construction and/or grading permits for each Work Area**, the applicant shall provide confirmation of final sewer availability letter from Cayucos Sanitary District to service the new residences. The project shall meet all applicable requirements of the final-will serve requirements by the District

Exterior Lighting

8. **Prior to issuance of construction permits for the residences**, the applicant shall submit exterior lighting plans to the Department of Planning and Building for review and approval. All proposed exterior lighting shall be shielded to the maximum extent possible and be of the lowest intensity feasible in order to avoid artificial light pollution of the riparian habitat area. Exterior lights on the north and northwest sides of the project (bordering the creek) shall be avoided where possible and be the minimum necessary to meet safety requirements. Exterior light shall be shielded and lighting shall be directed downward and away from the creek and riparian areas.

Access & Access Easement

9. **Prior to issuance of a grading permit for Work Area 1**, the applicant shall provide evidence of a recorded easement for access and utilities to Lots 3 and 4, Lot 5 and Lot 6, over the adjacent Lot 7 to the Department of Planning and Building,
10. **Prior to issuance of construction and/or grading permits for Work Area 1**, the applicant shall submit plans to the Department of Public Works to secure an Encroachment Permit and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plan is to include, as applicable:
 - a. Construct or reconstruct the existing site access driveway approach in accordance with County Public Improvement Standard B-1a.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).

11. **Prior to issuance of construction and/or grading permits for Work Area 1 & 2**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway.

Open Space Easement

12. Prior to issuance of a grading permit for Work Area 1, the applicant shall execute and record an open space easement for creek habitat protection, in a form approved by County Counsel and the Executive Director of California Coastal Commission in conformance with applicable Coastal Act regulations, for the Lots 3 and 4 (merged), and Lot 5, and Lot 6. The open space easement shall be 15,610 square feet and include a formal legal description and graphic depiction of subject properties including the Little Cayucos Creek Riparian Habitat Area. Development shall be prohibited in the open space area except for:
- a. Restoration, protection, and enhancement of native riparian habitat and Monarch butterfly habitat consistent with the terms of the Final Landscape Restoration and Enhancement Plan;
 - b. Public interpretive access improvements approved by a coastal development permit.

Quit Claim Deed

13. **Prior to issuance of a grading permit for Work Area 1**, the applicant shall provide evidence acceptable to the Executive Director of California Coastal Commission that it is the record title owner of the project site, such as a Quit Claim Deed and updated preliminary title report.

Fees

14. **Prior to issuance of construction permits**, the applicant shall pay all applicable school and public facilities fees.

Grading, Drainage, Sedimentation and Erosion Control

15. **Prior to issuance of construction and/or grading permits for each Work Area**, the applicant shall submit a complete drainage, erosion, and sedimentation control plan for review and approval, by the Public Works Department, in accordance with Section 23.05.040 through 23.05.050 of the Coastal Zone Land Use Ordinance. The plan shall use sediment control measures to protect Little Cayucos Creek. Installation of erosion and sedimentation control devices shall be installed around the perimeter of the construction zone. No flows shall be directed to Cayucos Creek without NPDES permit. The plan shall include the following:
- a. **Implementation of Best Management Practices during Construction.** The Plan shall identify the types and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants in the Little Cayucos Creek during construction. These measures shall be designed in accordance to the California Storm Water Best Management Practices Handbook and the San Luis Obispo County Resources Conservation District, as such:
 - i. Limit the extent of land disturbance to the minimum amount necessary to construct the project;
 - ii. Designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which must be covered on a daily basis;

- iii. Provide installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpiled areas;
 - iv. Provide hydro seeding (with native plants) of disturbed areas immediately upon conclusion of construction activities;
 - v. Good construction measures such as the use of dry cleanup measures whenever possible, collecting and filtering cleanup water when dry cleanup methods are not feasible, cleaning and refueling construction equipment at designated off site maintenance areas, and immediate cleanup of any leaks or spills.
- b. **Permanent Drainage and Erosion Control Plan.** The Plan shall include and clearly identify all permanent measures to control and direct all site runoff and a drainage system designed to collect all on-site drainage (in gutters, pipes, drainage ditches, swales, etc.) for use in on-site irrigation, infiltrations, and/or habitat enhancement, and/or directed to off-site storm drain systems. The Plan shall be prepared by a licensed engineer and incorporate structure and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater and other run-off associated with the development. The Plan shall include required calculations and documentations for all BMPs proposed and shall, at the minimum provide for:
- i. Drainage system designed to filter and treat the volume of runoff produced from irrigation and storm event up to and including the 85th percentile 24-hour runoff event for volume-based BMPs and/or the 85th percentile, 1 hour runoff event (with an appropriate safety factor) for flow-based BMPs, prior to its use for on-site infiltration, landscape irrigation, habitat enhancement, and/or discharge off-site. All filtering and treating mechanism shall be clearly identified, and supporting technical information shall be provided.
 - ii. Runoff from the roofs, driveways, parking lots, and other impervious surfaces shall be collected and directed into pervious areas on the site for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site;
 - iii. Post-development peak runoff rates and volumes shall be maintained at levels similar to, or less than, pre-development conditions;
 - iv. All runoff shall be directed away from the creek/riparian habitat area unless proven appropriate for habitat enhancement process;
 - v. All drainage system elements shall be permanently operated and maintained.
16. **At the time of application for grading and/or construction permit(s)**, the applicant shall show the limits of the 100 year floodway on the site plan and all development located outside of the floodway and submit to Public Works for approval.

Stormwater Pollution Prevention

17. **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject to the LUO Section for Stormwater Management. Applicable projects shall submit a Stormwater Control Plan (SWCP) prepared by an appropriately licensed professional to the County for review and approval. The SWCP shall incorporate appropriate BMP's, shall demonstrate compliance with Stormwater Quality Standards and shall include a preliminary drainage plan, a preliminary erosion and sedimentation plan. The applicant shall submit complete drainage calculations for review and approval.
18. **At the time of application for construction permits**, if necessary, the applicant shall submit a draft "Private Stormwater Conveyance Management and Maintenance System" exhibit for review and approval by the County.

19. **Prior to issuance of construction permits**, if necessary, the applicant shall record with the County Clerk the "Private Stormwater Conveyance Management and Maintenance System" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

Biological Resources

21. **BR-1: Prior to issuance of grading and/or construction permits for each Work Area**, the applicant shall retain an biological consultant approved by the County Planning and Building Department to monitor the implementation of the biological mitigation measures and erosion and sedimentation control measures during grading and construction activities. The biologist shall monitor the installation of fencing as per the approved construction plans and, at a minimum, monitor the construction activities once per week and provide a summary report to the County Planning Department at the close of construction activities. Construction activities shall be limited to the dry season (April 15 through October 15).
22. **BR-7: At the time of building permit application(s) for the residences**, the Department of Planning and Building shall verify no fireplaces are allowed because smoke from fireplaces interferes with Monarch Butterfly habitat.

Landscape Plan

23. **BR-9: Prior to issuance of grading and/or construction permit(s) for Work Area 2 & 3**, the applicant shall submit a landscaping plan including native, drought and fire resistant species that are compatible with the habitat values of the surrounding habitat and compliant with the Landscape Restoration and Enhancement Plan (LREP). Landscaped areas within the Approved Development Envelope shall consist only of native plants of local origin that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property except for existing eucalyptus trees associated with the Monarch butterfly habitat.

Landscape Restoration and Enhancement Plan

24. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit the Landscape Restoration and Enhancement Plan (LREP) to the Department of Planning and Building for review and approval. The LREP shall provide for riparian corridor and Monarch butterfly landscape restoration and enhancement in the Little Cayucos Creek Riparian Habitat Area, with the goal of enhancing and restoring this area to self-sustaining and high resource value natural habitat state. The LREP shall be prepared by a qualified restoration ecologist, and shall incorporate specific conditions of the site (including soil, exposure, temperature, moisture, wind, etc), as well as restoration and enhancement goals. At a minimum, the plan shall provide for the following:
 - a. A baseline assessment, including photographs, of the current physical and ecological condition of the restoration and enhancement area;
 - b. A description of the goals and measurable success criteria of the plan, including, at a minimum, the requirement that success be determined after a period of at least three years wherein the site has been subject to no remediation or maintenance activities other than weeding, and this condition be maintained in perpetuity.
 - c. Removal of invasive and non-native plant species, except for existing eucalyptus trees associated with the Monarch butterfly habitat;

- d. Planting of native species of local stock appropriate to the Little Cayucos Creek riparian corridor, including provision of fall and winter-flowering nectar sources for Monarch butterflies at appropriate locations. Non-native and/or invasive plant species shall be prohibited;
- e. Monitoring and maintenance provisions including a schedule of the proposed monitoring and maintenance activities to ensure that success criteria are achieved;
- f. Provision of submission of annual reports of monitoring results to the Department of Planning and Building, beginning the first year after completion of the restoration effort and concluding once success criteria have been achieved. Each report shall document the condition of the site area with photographs taken from the same fixed points in the same directions, shall describe the progress towards reaching the success criteria of the plan, and shall make recommendations (if any) on changes necessary to achieve success.

Cultural Resources

- 25. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall implement the Archeological Work Plan for CA-SLO-2195 (Applied Earthworks, April 2015). A Stage 2 investigation shall be prepared and submitted to the Environmental Coordinator, for review and approval upon completion of Stage 1 investigation.
- 26. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit to the Environmental Coordinator, a Fieldwork Closure Report from the consulting archaeologist indicating that all necessary field work as identified in the Stage 2 Plan has been completed.
- 27. **Prior to issuance of grading and/or construction permit(s) for Work Area 1**, the applicant shall submit a revised monitoring plan, prepared by a qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
 - A. List of personnel involved in the monitoring activities;
 - B. Description of how the monitoring shall occur;
 - C. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
 - D. Description of what resources are expected to be encountered;
 - E. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered “significant” archaeological resources?);
 - F. Description of procedures for halting work on the site and notification procedures;
 - G. Description of monitoring reporting procedures.

Conditions to be completed prior to ground disturbance or construction activities

Landscape Restoration and Enhancement Plan

- 28. **Prior to any ground disturbing activities**, a qualified biologist shall conduct a butterfly survey within 30 days of initial ground disturbance and/or planting activities. To the maximum extent possible, restoration and enhancement work shall be conducted during potential the Monarch butterfly roosting off-season (April 15 to October 1).

Site Development

- 29. **Prior to any grading work / ground disturbing work**, a qualified surveyor shall delineate the 20 foot setback areas from the upland edge of the riparian habitat. Temporary fencing shall be erected one foot outside of the setback area (and in the development envelope) to delineate it clearly for the construction phase. No disturbance, vehicular traffic, or equipment/ material staging shall occur within the setback area during construction or following completion of the project, except work authorized for the Landscape Restoration and Enhancement Plan (LREP).

CONDITIONS TO BE COMPLETED DURING PROJECT CONSTRUCTION

Biological Resources

30. To reduce the likelihood of sedimentation to Little Cayucos Creek, all private and construction vehicle traffic should be limited to those areas away from the northern and eastern edges of the property, outside of the fenced areas.
31. Construction activities shall be limited to the dry weather season (April 15 – October 15).
32. **BR-4:** The applicant shall implement the erosion and sedimentation control plan.
33. **BR-6:** The applicant shall implement the drainage plan.
34. The biological mitigation monitoring plan shall be implemented with on-site construction monitoring.

Cultural Resources

35. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

CONDITIONS TO BE COMPLETED PRIOR TO OCCUPANCY OR FINAL INSPECTION

Landscape Restoration and Enhancement Plan

36. **Prior to occupancy of any residence associated with this approval**, the applicant shall implement the LREP during construction as directed by a qualified restoration ecologist. The initial planting and plant removal shall be completed prior to the occupancy of the **first** approved residence. Submit field report prepared by qualified biologist verifying the completion of replanting to the Planning Department.

Birch Avenue Access Drive and Fire Lane Signage

37. **Prior to final inspection of Work Area 2**, the applicant shall provide to the Department of Planning and Building, evidence of a recorded maintenance agreement for Birch Avenue access driveway and “no parking (fire lane) signage” for Lots 3 and 4, Lot 5 and Lot 6. In lieu of a recorded maintenance agreement, the applicant may elect to provide maintenance in accordance with the provisions of Civil Code Section 845. The applicant shall also demonstrate to the Department of Planning and Building that the portion of the access driveway is either included within the above maintenance agreement or adequately addressed by another maintenance arrangement (such as Civil Code Section 845).

Cultural Resources

38. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection (whichever occurs first)**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the analysis included in the Data Recovery plan is not complete by the time final inspection or occupancy will occur, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

Biological Resources

39. **Prior to final inspection of any permits associated with this approval**, the applicant shall submit a biology monitoring report to the Environmental Coordinator for approval verifying completion of all necessary field work and monitoring.
40. **BR-6: Prior to final inspection of any permits associated with this approval**, the drainage plan shall be implemented and verified by the Department of Planning and Building.
41. **BR-7: Prior to final inspection of any residence associated with this approval**, the Department of Planning and Building shall verify no fireplaces are allowed because smoke from fireplaces interferes with Monarch Butterfly habitat.

Landscape

42. **BR-9: Prior to final inspection or occupancy**, the landscape shall be installed in accordance with the approved landscaping plan shall be installed. All landscaping shall be maintained in a viable condition in perpetuity.

Fire Safety

43. **Prior to final inspection or occupancy**, the applicant shall obtain final inspection and approval from Cayucos Department of Fire of all required fire/life safety measures.

Development Review Inspection

44. **Prior to final inspection of each Work Areas** the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
45. **Prior to occupancy of any residence associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Grading, Drainage, Sedimentation and Erosion Control

46. All areas disturbed by grading activities shall be revegetated with temporary or permanent erosion control devices. Devices must be installed in conjunction with any grading and must effectively control siltation

ON-GOING CONDITIONS OF APPROVAL (VALID FOR THE LIFE OF THE PROJECT)

Landscape Restoration and Enhancement Plan

47. Annual reports of monitoring results, beginning the first year after completion of the restoration efforts and concluding once success criteria have been achieved (criteria: 3 years of non-remediation/ maintenance activities except for weeding) must be submitted to the Department of Planning and Building. Upon success criteria achievement, the self-sustaining riparian habitat must be maintained in perpetuity.

Landscaping

48. No fireplaces are allowed in any of the residential structures.
49. All landscape (including all trees and riparian vegetation) shall be maintained in viable condition in perpetuity.

Permit Vesting

50. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

General

51. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.